

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

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|----------------------------------|---|--|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| vs. |) | Criminal Action No. 23-00062-KD |
| |) | |
| CARLOS ANDERSON, |) | |
| |) | |
| Defendant. |) | |

ORDER

Counsel for Defendant Carlos Anderson notifies the Court that Anderson died at Mobile Infirmary on March 21, 2024, and moves the Court to close this case (doc. 63).

In the Eleventh Circuit, when a defendant dies while the case is on direct appeal, “our case law provides that the conviction and sentence are void ab initio – which means we treat it as if the defendant had never been indicted and convicted.” United States v. Whipple-Duncan, 2024 WL 981142, *3 (11th Cir. 2024) (citing United States v. Logal, 106 F.3d 1547, 1551–52 (11th Cir. 1997) and United States v. Koblan, 478 F.3d 1324, 1325–26 (11th Cir. 2007) (defense counsel’s motion to dismiss the appeal as moot upon defendant’s death was granted; the appeal was dismissed as moot; and the case “remanded to the district court to vacate the judgment and dismiss the indictment...”). Here, Defendant Anderson died after he pled guilty but before he was sentenced, and consequently, before he could file a notice of appeal. However, the rationale appears applicable to this circumstance. Anderson died before his conviction was final either by completing the appellate process or by not filing an appeal after a judgment and conviction was entered. In this circumstance, dismissal of the indictment is appropriate. See Logal, 106 F. 3d at 1551-1552 (holding that defendant’s death during pendency of appeal rendered the conviction

void *ab initio* and remanding the case with instructions to dismiss the indictment).

Accordingly, unless the **United States** files an **objection** on or before **April 4, 2024**, the indictment against Carlos Anderson will be dismissed, effective **April 5, 2024**.

DONE and **ORDERED** this the 28th day of March 2024.

s / Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE